

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0287P**

**Sales and Use Tax  
Calendar Years 1995, 1996, and 1997**

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**ISSUE(S)**

**I. Tax Administration – Penalty**

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on May 4, 1998.

Taxpayer failed to self assess use tax on clearly taxable items in all years of the audit.

**1. Tax Administration – Penalty**

**DISCUSSION**

Taxpayer's audit report revealed that taxpayer failed to accrue and remit use tax for clearly taxable items such as reference materials, canned software, office supplies, candy, and other miscellaneous items. The adjustments resulted in over fifty percent (50%) of use tax due.

Taxpayer requests a waiver of penalty due to their long history of conscientious filing, prompt payment of tax, and that the self-assessment omission was not a willful avoidance of tax. In addition, the employee completing the sales/use tax returns simply was unaware that the purchasing agent had begun making out of state purchases of office supplies. Corrections have also been made to their reporting system.

Taxpayer is an Indiana corporation and should be aware that penalty will be assessed for negligence. The items in the audit are clearly taxable and use tax should have been self-assessed. Failure to do so is

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considered negligence.

**FINDING**

Taxpayer's protest is denied.